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8 **UNITED STATES DISTRICT COURT**  
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
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11 KRISTEN SADLON, an individual,

12 Plaintiff,

13 v.

14 FCA US LLC, and  
DOES 1-10, inclusive,

15 Defendants.  
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Case No. 8:24-cv-02033-JWH-KES

**ORDER DENYING PLAINTIFF'S  
MOTION TO REMAND [ECF  
No. 13]**

Before the Court is the motion of Plaintiff Kristen Sadlon to remand this case to Orange County Superior Court.<sup>1</sup> The Court concludes that this matter is appropriate for resolution without a hearing. *See* Fed. R. Civ. P. 78; L.R. 7-15. After considering the papers filed in support and opposition,<sup>2</sup> the Court **DENIES** the Motion.

### I. BACKGROUND

Sadlon commenced this action in Orange County Superior Court in August 2024.<sup>3</sup> In her Complaint, Sadlon asserts five claims against Defendant FCA US LLC based upon alleged violations of the Song-Beverly Consumer Warranty Act.<sup>4</sup>

FCA removed this action to this Court in September 2024 on the basis of diversity jurisdiction.<sup>5</sup> Sadlon filed the instant Motion in October 2024.<sup>6</sup> In her Motion, Sadlon asserts that FCA cannot establish diversity jurisdiction because FCA cannot satisfy its burden to show that the amount in controversy in this matter exceeds \$75,000.<sup>7</sup> Sadlon did not, however, concede that she seeks a

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<sup>1</sup> Pl.'s Mot. to Remand (the "Motion") [ECF No. 13].

<sup>2</sup> The Court considered the documents of record in this action, including the following papers: (1) Notice of Removal (including its attachments) [ECF No. 1]; (2) Compl. (the "Complaint") [ECF No. 1-2]; (3) Motion; (4) Def.'s Opp'n to the Motion (the "Opposition") [ECF No. 15]; (5) Pl.'s Reply in Supp. of the Motion (the "Reply") [ECF No. 17]; (6) Def.'s Suppl. Opp'n to the Motion (the "Supplemental Opposition") [ECF No. 20]; and (7) Pl.'s Suppl. Briefing in Supp. of the Motion (the "Supplemental Brief in Support") [ECF No. 21].

<sup>3</sup> *See* Complaint.

<sup>4</sup> *See generally id.*

<sup>5</sup> *See* Notice of Removal.

<sup>6</sup> *See* Motion.

<sup>7</sup> *See generally id.*

1 monetary judgment of \$75,000 or less.<sup>8</sup> Therefore, on its own Motion, the  
2 Court granted FCA leave to engage in jurisdictional discovery and ordered the  
3 parties to file supplemental briefs regarding the amount in controversy.<sup>9</sup>

## 4 II. LEGAL STANDARD

5 Federal courts are courts of limited jurisdiction. Accordingly, “[t]hey  
6 possess only that power authorized by Constitution and statute.” *Kokkonen v.*  
7 *Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). In every federal case, the  
8 basis for federal jurisdiction must appear affirmatively from the record. *See*  
9 *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 342 n.3 (2006). “The right of  
10 removal is entirely a creature of statute and a suit commenced in a state court  
11 must remain there until cause is shown for its transfer under some act of  
12 Congress.” *Syngenta Crop Prot., Inc. v. Henson*, 537 U.S. 28, 32 (2002) (internal  
13 quotation marks omitted). When Congress has acted to create a right of  
14 removal, those statutes, unless otherwise stated, are strictly construed against  
15 removal jurisdiction. *See id.*

16 To remove an action to federal court under 28 U.S.C. § 1441, the  
17 removing defendant “must demonstrate that original subject-matter jurisdiction  
18 lies in the federal courts.” *Syngenta*, 537 U.S. at 33. As such, a defendant may  
19 remove civil actions in which either (1) a federal question exists; or (2) complete  
20 diversity of citizenship between the parties exists and the amount in controversy  
21 exceeds \$75,000. *See* 28 U.S.C. §§ 1331 & 1332. “Complete diversity” means  
22 that “each defendant must be a citizen of a different state from each plaintiff.”  
23 *In re Digimarc Corp. Derivative Litigation*, 549 F.3d 1223, 1234 (9th Cir. 2008).

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26 <sup>8</sup> *See id.*

27 <sup>9</sup> *See* Order Regarding Pl.’s Mot. to Remand (the “Jurisdictional Discovery  
28 Order”) [ECF No. 18].

1 The right to remove is not absolute, even when original jurisdiction exists.  
2 In other words, the removing defendant bears the burden of establishing that  
3 removal is proper. *See Abrego Abrego v. Dow Chem. Co.*, 443 F.3d 676, 684 (9th  
4 Cir. 2006) (noting the “longstanding, near-canonical rule that the burden on  
5 removal rests with the removing defendant”); *Gaus v. Miles, Inc.*, 980 F.2d 564,  
6 566 (9th Cir. 1992) (“[t]he strong presumption against removal jurisdiction  
7 means that the defendant always has the burden of establishing that removal is  
8 proper” (quotation marks omitted)). Any doubts regarding the existence of  
9 subject matter jurisdiction must be resolved in favor of remand. *See id.*  
10 (“[f]ederal jurisdiction must be rejected if there is any doubt as to the right of  
11 removal in the first instance”).

### 12 III. ANALYSIS

13 Based upon its jurisdictional discovery, FCA estimates that Sadlon seeks  
14 at least \$33,618.15 in restitution, based upon the price of her vehicle, as well as  
15 \$67,236.30 in civil penalties.<sup>10</sup> Sadlon also seeks attorneys’ fees, prejudgment  
16 interest, and punitive damages.<sup>11</sup>

17 Sadlon does not contest that her vehicle is valued at roughly \$30,000, nor  
18 that she seeks civil penalties, attorneys’ fees, prejudgment interest, and punitive  
19 damages.<sup>12</sup> Nevertheless, she maintains that FCA has not met its burden to  
20 establish that the amount in controversy is above \$75,000.<sup>13</sup> According to  
21 Sadlon, FCA’s estimates are speculative because civil penalties and prospective  
22 attorneys’ fees may not be included in the amount in controversy.<sup>14</sup>

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24 <sup>10</sup> See Supplemental Opposition 2:12-13 & 2:25-26.

25 <sup>11</sup> See Complaint.

26 <sup>12</sup> See generally Supplemental Brief in Support.

27 <sup>13</sup> See *id.*

28 <sup>14</sup> See generally *id.*

1 Sadlon’s arguments border on frivolous. The Ninth Circuit routinely  
2 considers civil penalties when deciding whether the amount-in-controversy  
3 requirement has been satisfied, including in Song-Beverly cases. *See, e.g.,*  
4 *Babasa v. LensCrafters, Inc.*, 498 F.3d 972, 974 (9th Cir. 2007); *see also Morey v.*  
5 *Louis Vuitton North Am., Inc.*, 561 F. App’x 642, 643 (9th Cir. 2011) (including  
6 Song-Beverly civil penalties in an amount-in-controversy calculation). The  
7 Ninth Circuit has also held repeatedly that attorneys’ fees may “be included in  
8 the amount in controversy if they are available to prevailing plaintiffs pursuant to  
9 state fee-shifting statutes.” *Shoner v. Carrier Corp.*, 30 F.4th 1144, 1148 (9th Cir.  
10 2022). The Song-Beverly Act permits a successful plaintiff to recover  
11 reasonable attorneys’ fees, so attorneys’ fees must be included when calculating  
12 the amount in controversy here. *See* Cal. Civ. Code § 1794(d).

13 To the extent that Sadlon cites cases in which other district courts refused  
14 to include civil penalties or attorneys’ fees in the amount-in-controversy  
15 calculation absent some showing that those fees are likely to be awarded, the  
16 Court respectfully disagrees with those cases and finds them inapposite. “The  
17 amount in controversy is not a prospective assessment of a defendant’s  
18 liability.” *Chavez v. JPMorgan Chase & Co.*, 888 F.3d 413, 417 (9th Cir. 2018)  
19 (quotation and alterations omitted). Accordingly, “if a plaintiff claims at the  
20 time of removal” that she intends to recover penalties, damages, or costs that  
21 the law permits her to recover—including “damages (compensatory, punitive,  
22 or otherwise) and the cost of complying with an injunction, as well as attorneys’  
23 fees awarded under fee shifting statutes”—“then there is no question” that  
24 those amounts are “at stake,” no matter the “likelihood” of actual recovery. *Id.*  
25 The Court thus disagrees that FCA must demonstrate a likelihood of success in  
26 order to avail itself of federal jurisdiction.

27 Even assuming, though, that FCA was required to “justify” the inclusion  
28 of civil penalties and attorneys’ fees by “pointing to allegations in the

1 Complaint” that support awarding those fees, *see Herko v. FCA US LLC*, 2019  
2 WL 5587140, at \*2 (S.D. Cal. Oct. 30, 2019), FCA could easily do so here. The  
3 Song-Beverly Act permits a plaintiff to recover “a civil penalty which shall not  
4 exceed two times the amount of actual damages” if the plaintiff “establishes that  
5 the failure” to comply with the Song-Beverly Act “was willful.” Cal. Civ. Code  
6 § 1794(2)(c). Sadlon alleges not only that FCA acted willfully, but also that  
7 FCA committed fraud by concealing problems with the transmission in her  
8 vehicle and refusing to repair or replace the vehicle by blaming “the symptoms  
9 of the defects on other issues not the actual defect itself.”<sup>15</sup>

10 Finally, the Court will not allow Sadlon to evade federal jurisdiction based  
11 upon her own refusal to provide FCA with information that the Court ordered  
12 Sadlon to provide. In her Supplemental Brief in Support, Sadlon argues—as she  
13 did in her Motion—that the Court lacks jurisdiction because FCA has not met  
14 its burden to show that Sadlon seeks a monetary judgment of more than  
15 \$75,000.<sup>16</sup> But Sadlon again refuses to concede that she seeks less than that  
16 amount.<sup>17</sup> Those arguments were the basis for the Court’s Jurisdictional  
17 Discovery Order,<sup>18</sup> and Sadlon’s refusal to provide fulsome answers to FCA’s  
18 discovery requests in favor of repeating her prior arguments flies in the face of  
19 the Court’s instructions.

20 Accordingly, the Court **DENIES** the Motion.  
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25 <sup>15</sup> See Complaint ¶¶ 18, 24, & 48.

26 <sup>16</sup> See Supplemental Brief in Support.

27 <sup>17</sup> See *id.*

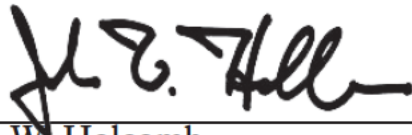
28 <sup>18</sup> See Jurisdictional Discovery Order.

**IV. DISPOSITION**

For the foregoing reasons, the Court hereby **ORDERS** that Sadlon's instant Motion to remand [ECF No. 13] is **DENIED**.

**IT IS SO ORDERED.**

Dated: April 14, 2025

  
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John W. Holcomb  
UNITED STATES DISTRICT JUDGE